FOR MYSORE STATE

II-27—40,006—27-10-48.

Home (1949) Department.

Ms. SERIES

D.6(5)

G.O. No. 4462

Dated 7th November 1949

[Despatch Abstract.]

Marriages - Payment of dowry - Prevention - Legislation - Non-official Bill - Papers - Recorded.

Government of Madras

Home Department.

NOTE FOR THE CABINET.

MARRIAGES - Payment of dowry - Prevention - Legislation.

Sri T. Viswanatham, M.L.A. has given notice of his intention to move for leave to introduce the Madras Dowry Prohibition Bill, 1949, in the current session of the Assembly. A copy of the Bill with the statement of objects and reasons is annexed. The object of the Bill is to put an end to the Dowry system.

2. The subject matter of the Bill falls within the concurrent Legislative list and is intra vires the Provincial Legislature. The Bill does not require the previous sanction of the Governor under the Government of India Act, nor does it require the recommendation of the Governor under section 82 of that Act. But as some of the provisions of the Bill are repugnant to the provisions of the Code of Criminal Procedure, it should be reserved for the consideration of the Governor General under section 107(2) of the Government of India Act.

3. The question of undertaking legislation to prohibit the payment of dowry in marriages has been considered by the Government in the past. In 1938, the question was examined but it was decided that it might stand over for some years. The notes and orders recorded at that time are reproduced below for information

"Legislation of this kind which penalises two specific forms of payment at a wedding and leaves all other forms untouched is of doubtful usefulness.

Moreover it seems to me unreasonable to prohibit a man from giving his daughter any present at her wedding.

Such prohibition is easily evaded, and the remedy is to be sought in propaganda etc. against a social custom the evil of which lies in the fact that it is carried to excess.

H.M.(Food) 20-7-1938"

H.M.C&P. "I agree that no action need be taken by us now. Till the daughters are given a legitimate share in the properties of the parents it is not equitable to take up the matter like this for legislative interference There are other reasons also.

K. Raman Menon 25-7-38
H.M. (C & P)"

H.M.P.I "Wedding presents from friends are not prohibited under the Bihar Bill. There is no difficulty in excluding presents from other than parents or guardians of the bride or the bridegroom from the operation of the proposed legislation. Even parents and guardians may be permitted to give presents after the expiry of a fixed period after the wedding, when the stress and the coersive factors of the marriage celebrations have passed off.

In our country which is beset with so many social evils, we have got to have recourse to legislation to eradicate them. We cannot afford a mass frontal attach on these age-old habits of our people. We must break down opposition by patient and piecemeal attacks. The institution of the dowry is the ruin of many a poor and middle class family. We cannot afford to wait until the daughters acquire

properties....

property rights for the crying evil to be eradicated. I do ~~not~~ think legislation on the lines of the Bihar Bill is necessary in our province also.

Ramanathan 26-7-38
H.M. (P & I)"

"The question may be allowed to stand over for some years.

C. Rajagopalachari 9-8-38
H.P.M."

In 1946, the question was again taken up and was examined. The then Legal Secretary (Sri Venkatachala Iyer) noted on the case as follows:--

"It is by no means easy to deal with this evil by a legislative enactment and it is bristling with difficulties. Probably it is the Brahmin community that suffers most from this evil. To a rich man it affords an opportunity to display his affection and lavish his wealth on his daughter and instances are too common in which rich persons spend thousands of rupees for a marriage. The example set by such /with persons has had its own pernicious effects in that men/moderate or little means have taken to aping the rich under a false sense of respectability that they would otherwise suffer in the estimation of others. But to them it means financial embarassment or even ruin. As is well known, in addition to varadakshinai or bridegroom price, there are several occasions when presents in kind or money are customary. Thus, presents have to be given annually for Deepavali and other similar occasions, when the girl becomes pregnant, at the birth of a child, for the customary ceremonies for each child up to marriage and even further. In matters of this kind which have the sanction of custom and above all sentiment, it is open to grave doubts if legislation could successfully put an end to such practices. There are subtle ways of compulsion which many a man may find it difficult to withstand when his daughter's happiness is at stake. Such social practices have a tendency to appear in new forms. But there is also another side of the picture. It has to be said that the presents brought by the wife have enabled many a young man to start life comfortably which he could not have done otherwise.

Granting that the system as now practised is an evil, the question to be considered is whether it could be eradicated or atleast mitigated by legislation. The Child Marriage Restraint Act has to some extent mitigated the rigours of this system, as parents are no longer compelled to find a husband for their daughter before puberty. They can afford to wait and refuse to be coerced into accepting unreasonable terms. It is not known whether in the draft Hindu Code daughters are allowed a share in the father's estate. If the daughter's right to a share is recognised, one may expect that in course of time these evils will disappear.

If legislation is decided upon, it is for consideration whether we should follow the Sind example and penalise "payments" to the extent specified in their Act. There is danger in such total prohibition in that it might render it difficult for parents to get suitable bridegrooms. Such a state of affairs is sure to bring other evils into existence.

I believe that according to the custom prevailing in the Vysia community, it is the bridegroom that has to spend heavily by providing jewels for the bride. In some other communities also the lion's share of the expenses falls on the bridegroom. Such variations in the usage of prevailing among different communities may have to be enquired into before legislation is undertaken. Probably we may make a beginning by limiting what is called varadakshinai or money paid to the bridegroom at the time of marriage and leave presents on other occasions untouched.

This....

This will afford relief to the poor man from a heavy burden while the rich man about whom we need not be too solicitious will be at liberty to continue to give costly presents on other occasions.

To guard against evasion, provision may be made tha payment in any form or promise to pay exceeding the limit prescribed for and in consideration of marriage, and whether at the time of marriage or thereafter, shall be invalid".

The question of undertaking legislation on the subject was placed before the Cabinet in November 1946, but the Cabinet decided to defer the matter sine die. Again the matter was placed before the Cabinet in August 1947 but the Cabinet adjourned consideration of the matter sine die

4. The Govt. have considered the proposal to undertake legislation to prohibit dowry more than once and the proposal was deferred apparently because there was no public demand for such legislation and because the Govt. did not consider it such a serious evil as to be prevented by legislation. The position does not seem to have changed since 1947.

With regard to the attitude to be adopted by the Government towards the present Bill, H.M.(E & L)has minuted that the Bill may be opposed after placing it before the Cabinet. H.Pr. has agreed with H.M. (E & L.)

5. The question for decision is --

(1) whether Government will oppose the Bill in view of their previous decisions to defer the matter sine die; or

(2) whether they will remain neutral allowing members to vote as they please; as in the case of the Bigamy Prevention and Intercaste Marriage Bills; or

(3) whether they will support the Bill in view of the fact that it intends to prohibit an evil prevalent in society.

K. MADHAVA MENON,
Hon'ble Minister for Law.

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Annexure

A Bill to Prohibit Dowry System

PREAMBLE. WHEREAS it is expedient, in the interests of Social well being, to prohibit the giving or receiving of dowries it is hereby enacted as follows:

SHORT TITLE 1. This Act may be called the Madras Dowry Prohibition Act, 1949.

COMMENCEMENT. 2. The Act shall extend to the whole Province and come into force at once.

DEFINITION. 3. "Dowry" means consideration in money or moveable or immovable property, stipulated by the Bridegroom or his parents or guardian or other person on his behalf; as a condition of marriage or consumation thereof, whether the condition is to be performed at the time of the proposal, marriage, consumation or at any time subsequent thereto.

p.t.o.

DOWRY PROHIBITED. 4. Notwithstanding any law or custom or usage to the contrary, a stipulation for a Dowry or acceptance thereof is hereby prohibited.

PENALTY. 5. (a) A Bridegroom who acts in contravention of the provisions of section 4 above shall be liable to imprisonment of either description for a period not exceeding six months or for a fine not exceeding Rs.1,000/-.

(b) Parents or guardians of the bridegroom or persons on their behalf who act in contravention of the provisions of Sec. 4 above, shall be liable to imprisonment of either description for a period not exceeding two years with or without fine not exceeding the amount of the Dowry proved to have been received.

DISENTITLEMENT FOR GOVERNMENT SERVICE. 6. A bridegroom or his parents or persons on their behalf contravening the provision of Sec. 4 shall on conviction ~~shall~~ be disentitled from entering into Govt. service or the service of a Local Authority or the the service of an institution aided by Government and if already in such service, their services shall be terminated.

COGNISANCE BY DISTRICT MAGISTRATE. 7. (a) An offence under Section 4 and 5 of this Act shall be cognisable by the District Magistrate, on complaint made by any person within one year of the date of offence.

(b)Any person filing a complaint under this Act shall deposit at the time of filing the complaint Rs.200/- which shall be forfeited in case the complaint is found to be false or frivolous.

(c) Where the District Magistrate, on completion of the hearing, is satisfied that there is no reasonable ground for the complaint, he may award compensation to the accused in a sum not exceeding Rs.2,000/- and such compensation shall be recovered from the complainant as if it were a fine, under the provisions of the Code of Criminal Procedure.

STATEMENT OF OBJECTS AND REASONS.

The system of stipulation for dowries and the attending unconscionable compulsion have upset the simple economy of thousands of families and horrified the social conscience. Moral precepts and Resolutions of Social Reform Conferences have not exercised the necessary deterring effect. Time has therefore come now when the State should step in to prohibit the Dowry system by law. The Bill seeks to give effect to it.

p.t.o.

CONFIDENTIAL

Government of Madras.

Meeting of the Council of Ministers held at Fort St. George, Madras on Wednesday the 7th September 1949 at 11 A.M.

The Hon'ble the Premier presided

PRESENT:- The Honible Dr. T.S.S. Rajan
" Sri M. Bhaktavatsalam
" " B. Gopala Reddi
" " K. Madhava Menon
" " H. Sitarama Reddi
" " A.B. Shetty
" " K. Chandramouli
" " B. Parameswaran
" " M. Sanjiva Reddi
" " C. Perumalswami Reddi
" " J.H.B. Roche Victoria

AGENDA -

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20. Marriage - Payment of dowry - Prevention - Legislation

ORDER:-

The Bill will be opposed.

K.R.M.
8-9-49

P.S. Kumaraswami Raja
Premier.

Home Department.

Please see the Cabinet decision at p. 23 c.f. The file may now be sent to Public (Special) for the use of C.S. during the next Cabinet meeting to be held on 7-9-49. It is presumed that the subject will be included in the agenda for the next meeting.

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3-9-49.

Please see p. 25 c.f. The Cabinet has decided to oppose the Bill.

2. The last session of the Assembly was prorogued on 2-8-49. According to rule 3(6) of the Assembly Rules, the Bill has lapsed. No further action is called for in this file at present. The papers may be recorded.

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7-11-1949.

G.O.Ms.No.4462 Home, dated 7th November 1949.

Abstract

Marriages - Payment of dowry - Prevention - Legislation - Non-official Bill - Papers - Recorded.

(True copy)

Superintendent,
Madras Record Office
K.S
17.1

aj/16.7